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UNITED STATES DEPARTMENT OF AGRICULTURE
BUREAU OF AGRICULTURAL ECONOMICS
Land Economics Division

February 15, 1940

Bulletin 52 (Supplement)

DIGEST OF OUTSTANDING FEDERAL AND STATE LEGISLATION AFFECTING RURAL LAND USE 1/

State Legislation - Bills Introduced in Mississippi 2/

This group of bills recently proposed for enactment by the Legislature of Mississippi is being presented as a special supplement to the Bulletin for the reason that, taken together, they comprise a program for the revision of State Land Policy on a broad scale. Arrangement is by subject matter and bill number.

Agriculture

H. B. 190. Agricultural cooperatives (Introduced by Mr. Boutwell). This bill, which was recently passed by the House with one dissenting vote, if it becomes the law, will expand the present cooperative statute to permit farmers to cooperatively obtain medical services, form mule insurance pools and engage in burial activities. It will permit five or more persons who are engaged in the production of the agricultural commodities to form a cooperative association for the above mentioned purposes as well as many other agricultural and related enterprises.

1/ Primarily for the information of Bureau of Agricultural Economics, Soil Conservation Service and Forest Service personnel.

2/ Digests prepared with the cooperation of Mr. W.J. Coleman, Associate Agricultural Economist, Little Rock, Arkansas.

Agri. cont.

H. C. R. 17. Purchase of Land in the Mississippi Delta (Introduced by Messrs. Boutwell and Saul). Would memorialize Congress to provide the Secretary of Agriculture with authority and funds to purchase unimproved, potentially good agricultural lands in the Mississippi Delta, to develop such lands and resell them to settlers desiring new farm homes under such reasonable financial and other conditions as will assure security of farm ownership and constructive agricultural development. (Unanimously adopted by the House, February 9.)

Land Use Regulation and Development

H. B. 167. Refuse from Oil Wells (Introduced by Messrs. Saul and Boutwell). Would impose absolute liability for damage upon anyone who causes or permits salt water, oil or refuse from tanks or wells to damage real or personal property belonging to another, except when caused by an act of God.

H. B. 168. Oil Operators (Introduced by Messrs. Boutwell and Saul). It would be forbidden to allow oil wastes or salt water to flow over the surface of the land and would make oil operators liable to damages caused by violations. No waiver of the liability agreed to prior to the occurrence of the damage would be considered valid.

H.B. 171. Water Pollution (Introduced by Messrs. Boutwell and Saul). Would forbid the pollution of surface or underground fresh waters, caused by emptying salt water, oil or refuse from tanks or wells.

Public Finance

H. B. 189. Bond Issues (Introduced by Mr. Boutwell). Would amend existing laws relative to the issuance of bonds by local taxing units. The existing law permits bond issues to be liquidated over a period of 25 years or less, such period to be determined by the governing board of the taxing unit. The proposed bill simply permits the tax payers to say whether they want five-year [illegible] bonds or bonds for any other period within 25 years. It has been the experience of oil producing States that local Governments in oil field areas tend to assume burdensome, long-term indebtedness while the oil development is in progress. The liquidation of such indebtedness often is not synchronized with the production of oil. In one locality in Oklahoma, for instance, where a study of this situation was recently made, tax rates running as high as 365 mills were found.

Public Lands

H. B. 170. Leases (Introduced by Messrs. Boutwell and

Saul). Would amend the public land leasing laws by requiring the inclusion of clauses designed to protect the land from injury caused by oil and refuse from oil operations.

H. B. 183. Land Policy Commission (Introduced by Mr. Boutwell). Would establish a land policy with respect to the State's rural tax forfeited lands and provide for the classification of such lands as agricultural or non-agricultural and for the disposition to Mississippi small owners or landless people, or to State or Federal agencies if found to be unsuitable to farming.

Would establish a State land policy commission consisting of the director of the agricultural experiment station, the director of the agricultural extension service, the State forester, the State director of conservation, the commissioner of agriculture, the commissioner of State lands, and five bona fide farmers, appointed by the Governor, for terms of six years each. Except as regards the commission's land classification activities, the officials named would serve as advisory members. In addition, the Governor would be empowered to invite the Secretary of the United States Department of Agriculture to designate one or more advisory members to serve on the commission. In brief, the commissioners would be empowered (1) to classify lands forfeited to the State for non-payment of taxes as to their most suitable use; (2) to make appropriate disposition of State lands through homesteading, sale, allocation to public agencies and otherwise; (3) to prepare and keep systematic records and indexes to indicate the character, classifications and status of State lands; (4) to prepare maps of tax forfeited lands to be placed in conspicuous places in appropriate county offices; and (5) to conduct investigations, enlist the cooperation of other agencies and prepare biennial reports for the Legislature.

The commission would be required to classify State lands into two classes; first, those primarily suited for agricultural uses, and second, those primarily suited for non-agricultural uses. These classifications would be subject to change at the discretion of the Commission. Lands classified as suitable for agricultural uses would be subject to alienation in several ways.

Heads of families who have lived in the State for a minimum of five years, and who are, or recently have been, "low income farmers, farm tenants, sharecroppers or farm laborers", would be eligible for homesteads of a size suitable to operation by a single family. These farms might contain in addition to cultivated lands, an appropriate amount of land for woodlots and grazing. The commission would be specifically empowered, however, to withhold the granting of applications in any area where

the extension of road and school services would entail burdensome public expenditures, until a sufficient group of homesteaders decided to settle in the area.

A homestead application fee of $12.50 would be required after which the commission would enter into a sale contract with the applicant. At the end of two years, if the conditions of the contract have been fulfilled, the homesteader would be entitled to a deed but the deed would contain such reservations, restrictive covenants including restraints on alienation as the commission might feel "necessary to insure beneficial and constructive use of the land and protect the interests of the State". The commission would be specifically authorized to cooperate with Federal agencies in arranging assistance to homesteaders as well as by allocating lands to them under conditions necessary to secure their development in accordance with the State's policy. The commission would also be permitted to lease tracts of land at no less than their appraised value but in no greater quantities to one purchaser than would, when added to land already owned by him, comprise a family-sized farm. Deeds of conveyance issued for this purpose might contain such reservations and restrictive covenants as were deemed necessary by the commission.

Non-agricultural lands might be designated for further development to be carried out either in cooperation with some Federal agency or other public institution for administration as public forests, parks, and other conservation projects. Lands assigned to these agencies would be dedicated to permanent public management. Non-agricultural lands for which development funds are unavailable through State agencies, may be sold by the commissioner of State lands with the approval of the governor and of the land policy commission, but the deeds of conveyance must contain restrictive covenants appropriate to the conservation of the State's natural resources and if the lands be chiefly valuable for forestry, covenants designed to insure their operation on a sustained yield basis are especially to be included.

H. B. 184. Reservation of Minerals (Introduced by Mr. Boutwell). Would require in the event of the disposal of any land owned by the State that the State forever retain all oil, gas and mineral rights.

Real Property Taxation

H. B. 157. Accurate Description of Taxable Property (Introduced by Mr. Saul). Requires the tax payer to accurately describe his land for taxation purposes or be estopped from attacking the tax title to the land should it forfeit to the State. Any land owner refusing to return a list of his taxable

property to the tax assessor as now required by law, will be subject to a ten percent penalty.

The Mississippi supreme court has often held that land insufficiently described which forfeits to the State does not carry with it a good tax title. With the enactment of H. B. 157 the State should be able to convey better tax titles. This is especially true when considering that in 1936, 17 percent of the land belonging to the State as a result of tax reversion was defectively described.

H. B. 158. Endorsement of Transfers by County Assessor (Introduced by Mr. Saul). Would amend the laws relating to the transfer of title to real estate so as to require that all instruments purporting to transfer title, bear the endorsement of the county assessor, as an indication that the transfer has been noted in his office, before the instrument is recorded in the office of the clerk of the chancery court.

The effect of this measure is that of affording the assessor a means of keeping his tax rolls up to date and of being certain that the land involved in future sales is assessed. A similar law is found in Indiana in Section 5478, 5479, Baldwin's Indiana Statutes, annotated 1934, and Section 2573, Page's Ohio General Code.

H. B. 159. Limitation (Introduced by Mr. Saul). Would clarify the existing statute of limitations so as to limit to six months subsequent to the effective date of this act, the time within which an owner, mortgagee, or other person, may attack the title to land forfeited to the State and presently occupied by a transferee. The statute of limitations does not run in the following cases: (1) where the land has been redeemed; (2) when the taxes were actually paid; or (3) where the land was exempt from taxation.

H. B. 160. State Land Roll (Introduced by Mr. Saul). Would repeal Section 6038 of the Mississippi code which provides that the Attorney General shall strike from the State land roll all land to which the State does not have good title. With the enactment of the statute of limitations in 1934 and should the bills discussed above be enacted, Section 6038 would become a dead letter.

It is accordingly proposed to strike it off the statute books: (1) because it might be misleading by implying that the law to cure defective titles is ineffective; (2) because the section will have become unnecessary; and (3) because the section places upon the Attorney General a burdensome duty which it is difficult for him to fulfill.

H. B. 161. Notification That Exemption Period Has Ex-

pired (Introduced by Mr. Saul). Proposes the repeal of the Mississippi Code requiring that lienors of the past six years be notified that the redemption period has expired where real property taxes are delinquent. The purpose in repealing these sections is to remove the causes for invalidating tax title. Under the existing law, if lienors are not notified of expiration of redemption period, the supreme court takes the position that title to the land involved does not pass to the State.

H. B. 162. Tax Sales by Subdivisions (Introduced by Mr. Saul). Would amend the existing law requiring that property offered at tax sales be offered in 40-acre subdivisions, to provide that the entire tract be sold instead. The supreme court has held that any error in the description of subdivisions offered for sale invalidates title to the land.

H. B. 176. Land Descriptions (Introduced by Mr. Boutwell). Would require each county tax assessor to ascertain whether land descriptions are correct. If it be found that they are not, and the owner will not provide a correct description, the assessor would be authorized to direct the county surveyor to prepare one and to collect a surveyor's fee plus a ten percent penalty from the land in the same way that taxes are collected.

H. B. 185. Tax on Speculative Real Property Transfer (Introduced by Mr. Boutwell). Would impose an excise tax on the transfer of real estate measured by the speculative profits due to the expenditures of public funds for flood control or drainage improvements. The tax would apply to transfers of lands lying within every drainage district of the State now existent or hereafter organized. The amount of the tax would vary from 50 percent on the increase in value received by the owner as a result of the transfers of land held for a period of 12 months or less, to ten percent on land held for a period of 30 to 36 months. No tax would be imposed on land held for more than 36 months. Taxes would be calculated and collected by the clerk of the chancery court prior to the recording of instruments evidencing the transfer. Furnishing false or incomplete information to the clerk would constitute a crime punishable as perjury committed in open court. Anyone having information relative to an evasion of the tax, would be allowed to submit the information to the clerk of the court and if a tax is found to be due, a penalty of ten percent would be collected in addition to the tax, the amount of the penalty being paid over to the person who furnished the information. The governing body of a drainage district would be permitted to take advantage of this proposition and to receive the ten percent penalty payment to be applied on district indebtedness. Evasion or attempt to evade the

payment of taxes imposed or any other violation of the act, would constitute a misdemeanor punishable--for each separate offense--by up to two years imprisonment or $2000 fine, or both.

H. B. 186. Exemption of Oil in Natural State (Introduced by Mr. Boutwell). Would exempt oil in its natural state below the surface of the ground from ad valorem property taxation, and to indicate that interests or reservations of oil are not subject to ad valorem taxes.

H. B. 187. Homestead Exemption Amendment (Introduced by Mr. Boutwell). Would amend the present homestead exemption law so as to extend the benefits of its provisions to farmers who are beneficiaries of Federal and State programs, thinking particularly of tenant purchase clients of the Farm Security Administration.

H. B. 191. Simplified Procedure for Quieting Tax Titles (Introduced by Mr. Boutwell). Would provide a simplified and speedy in rem procedure for quieting and confirming title on land that has forfeited to the State because of the non-payment of taxes. It does not repeal any existing law, and its purpose is to provide an additional remedy for validating tax titles. The procedure provided is open both to the State and to purchasers from the State of tax forfeited lands. The effect of the bill is to permit the State or purchasers from the State of tax forfeited land to give constructive notice by newspaper publication that the title to certain tax forfeited lands will be quieted and confirmed and that any interested persons must defend the quieting and confirming of title to such lands or forever be barred.

Severance Taxes

H. B. 169. Substitution for Sales Tax (Introduced by Messrs. Boutwell, Saul and Holloman). Would amend the present revenue laws by imposing an eight percent severance tax on oil rather than a two percent sales tax as nowprovided.

H. B. 188. Distribution (Introduced by Mr. Boutwell). Proposes the distribution of severances taxes on oil production on the following basis: ten percent to the general fund of the State; ten percent to the county from which the taxes were collected; 40 percent to the "school books fund"; and 40 percent to the "State conservation fund".